

CHAPTER Env-Sw 1700 REQUIREMENTS FOR LAND APPLICATION OF WOOD ASH

Statutory Authority: RSA 149-M:7

PART Env-Sw 1701 PURPOSE AND APPLICABILITY

Env-Sw 1701.01 Purpose. The purpose of the rules in this chapter is to establish criteria and procedures by which ash generated from the combustion of clean wood shall be certified for distribution and beneficial use in agricultural land applications.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3401.01)

Env-Sw 1701.02 Applicability.

(a) Except as provided in (b) below, the rules in this chapter shall apply to any person distributing and using wood ash for agricultural land application in New Hampshire.

(b) The rules in this chapter shall not apply to persons using wood ash from their household wood stove(s) for agricultural land application in New Hampshire.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3401.02)

PART Env-Sw 1702 LAND APPLICATION REQUIREMENTS

Env-Sw 1702.01 Certification Required. No person shall distribute, receive, store or use ash for land application in New Hampshire unless:

- (a) The ash is certified for distribution and use in accordance with this chapter;
- (b) The ash is actively managed; and
- (c) The ash is used in accordance with the provisions of the certification.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3402.01)

Env-Sw 1702.02 Status of Certified Wood Ash. Wood ash certified pursuant to this chapter shall be approved for distribution to and receipt, storage and use by the permit-exempt land application facilities identified in Env-Sw 1704 only.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3402.02)

Env-Sw 1702.03 General Provisions for Obtaining Certification.

(a) The generator of wood ash to be land applied shall obtain the required certification by filing an application pursuant to Env-Sw 1705.

(b) The applicant shall demonstrate in the application that the wood ash meets the criteria for land application in Env-Sw 1703.

(c) The generator shall, as a condition of the certification, continually monitor the quality of the ash in accordance with Env-Sw 1706, unless certified on a one-time basis.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3402.02)

PART Env-Sw 1703 CRITERIA FOR LAND APPLICATION

Env-Sw 1703.01 Source.

- (a) Only ash generated from the combustion of clean wood shall be land applied.
- (b) Ash generated from the combustion of wood containing any of the following materials or substances shall not be land applied:
  - (1) Paints;
  - (2) Stains;
  - (3) Preservatives; and
  - (4) Other materials or substances not naturally occurring in wood.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3403.01)

Env-Sw 1703.02 Quality. Wood ash that is land applied shall:

- (a) Not contain heavy metals in excess of the following concentrations, as determined on a dry weight basis:
  - (1) For arsenic, 41 milligrams per kilogram (mg/kg);
  - (2) For cadmium, 39 mg/kg;
  - (3) For chromium, 1200 mg/kg;
  - (4) For copper, 1500 mg/kg;
  - (5) For lead, 300 mg/kg;
  - (6) For mercury, 17 mg/kg;
  - (7) For molybdenum, 75 mg/kg;
  - (8) For nickel, 420 mg/kg;
  - (9) For selenium, 100 mg/kg;
  - (10) For zinc, 2800 mg/kg; and
- (b) Be substantially free of uncombusted material.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3403.02)

Env-Sw 1703.03 Use. Land application of wood ash shall only occur at sites meeting the requirements for a permit exemption in Env-Sw 1704.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3403.03)

PART Env-Sw 1704 PERMIT-EXEMPT LAND APPLICATION FACILITIES

Env-Sw 1704.01 Land Application Sites. Wood ash land application sites shall be exempt from obtaining a permit, subject to meeting the requirements in Env-Sw 1704.02 through Env-Sw 1704.07.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3404.01)

Env-Sw 1704.02 Ash Standards. A permit-exempt land application site shall receive and use only ash certified for distribution and use in accordance with this chapter.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3404.02)

Env-Sw 1704.03 Use. The owner of a permit-exempt land application site shall use the ash received only in accordance with a farm management plan established for the site pursuant to Env-Sw 1704.04.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3404.03)

Env-Sw 1704.04 Farm Management Plan.

(a) Subject to the approval of and supervision by the New Hampshire department of agriculture, markets and food, a site-specific farm management plan for the land application site shall be developed and approved by the University of New Hampshire cooperative extension or by private consultants.

(b) The site-specific farm management plan for the permit-by-rule land application site shall include provisions for:

- (1) Ash storage, in conformance with Env-Sw 1002;
- (2) Soil testing as required to assure that the criteria in Env-Sw 1704.05 shall be met; and
- (3) Application rates to assure that the criteria in Env-Sw 1704.05 shall be met.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3404.04)

Env-Sw 1704.05 Maximum Metals Concentration in Soils. Wood ash shall not be applied to land where heavy metal concentrations in the soil exceed the cumulative pollutant loading rates established in Env-Ws 800.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3404.05)

Env-Sw 1704.06 Universal Environmental Performance Requirements. Practices at a permit-exempt wood ash land application site shall not violate the universal facility requirements in Env-Sw 1000.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3404.06)

Env-Sw 1704.07 Recordkeeping.

## NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(a) The owner of the permit-exempt land application site shall maintain records to document the land application practices.

(b) The owner of the permit-exempt land application site shall maintain a copy of the farm management plan with site records.

(c) The generator of certified wood ash shall maintain a copy of the farm management plan for all wood ash land application sites at which the generator's ash is used.

(d) Land application site records and farm management plans shall be made available for department inspection pursuant to Env-Sw 2000.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3404.07)

### PART Env-Sw 1705 APPLICATION AND APPROVAL

Env-Sw 1705.01 Application Content and Format. The applicant shall prepare the application for certification including the following:

- (a) Name, address and telephone number of the ash generator;
- (b) Name, address and telephone number of the facility producing the wood ash;
- (c) Volume of wood ash to be land applied, expressed in tons per year; and
- (d) Report of analyses of representative samples of the wood ash pursuant to Env-Sw 1706.01.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3405.01)

#### Env-Sw 1705.02 Application Filing.

(a) Applications to certify wood ash for distribution and use shall be filed with the department in duplicate.

(b) Applications to certify wood ash for distribution and use shall be signed by the ash generator as the applicant.

(c) The signature of the applicant shall constitute:

- (1) An affirmation that the material and information submitted is correct and complete to the best of his/her knowledge and belief;
- (2) An affirmation that the facility generating the wood ash only combusts clean wood, as prescribed in Env-Sw 1703.01.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3405.02)

#### Env-Sw 1705.03 Application Receipt.

(a) Upon receipt of an application, the department shall determine whether the filing requirements in Env-Sw 1705.02 have been met.

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

(b) Applications filed contrary to Env-Sw 1705.02 shall not be processed by the department, but shall be held by the department while the applicant is notified of the deficiency and given an opportunity to correct the deficiency.

(c) If, after notice pursuant to (b) above, the applicant fails to correct the deficiency within 10 working days or within a mutually agreed time, the department shall return the application as filed, with a written explanation as to the reason(s) for returning the application.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3405.03)

Env-Sw 1705.04 Application Review.

(a) Within 60 days following the date an application is filed in accordance with Env-Sw 1705.02, the department shall determine whether the application is complete.

(b) If the applicant submits any information to complete the application between the date of initial filing and the date the department determined the application is complete, the 60-day review time shall be measured from the date of latest submittal.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3405.04)

Env-Sw 1705.05 Incomplete Applications.

(a) If the application is incomplete, the department shall provide written notice to the applicant wherein:

- (1) The applicant, type of application and all documents that constitute the incomplete application shall be identified;
- (2) The deficiencies shall be identified;
- (3) Instructions shall be provided for completing the application, including the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application; and
- (4) The applicant shall be alerted to the dormancy provisions in (d) and (e) below.

(b) In the event that an incomplete application provides information sufficient for the department to determine the criteria for issuance are not be met, the department shall deny the requested approval and send written notice thereof in accordance with Env-Sw 1705.07(c), in lieu of deeming the application incomplete.

(c) If an application is incomplete for incidental and not substantive reasons, the department shall so notify the applicant by telephone in lieu of providing a written notice of incompleteness, provided:

- (1) The anticipated time required for the applicant to correct the deficiency is less than the anticipated time required for the department to notify the applicant in writing; and
- (2) The department specifies in the verbal notice a reasonable time period, determined in consultation with the applicant, for correcting the deficiency, after which written notice shall be sent by the department in accordance with (a) above if the applicant fails to respond within the specified time.

(d) Upon notifying an applicant that the application is incomplete, the department shall suspend further processing of the application pending receipt of the additional information required.

(e) No portion of the time between the date a notice of incompleteness is provided and the date the applicant responds shall be included in computing the time limits for processing the application.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3405.05)

Env-Sw 1705.06 Complete Applications. A complete application shall undergo a technical review by the department pursuant to the criteria for land application in Env-Sw 1703.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3405.06)

Env-Sw 1705.07 Application Decision.

(a) If the criteria for certification in Env-Sw 1703 are met, the department shall issue a certificate authorizing the distribution and use of the wood ash pursuant to (d) below.

(b) If the criteria for certification in Env-Sw 1703 are not met, the department shall deny the requested approval and shall so notify the applicant in writing.

(c) The notice of denial shall:

- (1) Identify the applicant, type of application and all documents that constitute the complete application or, if the decision for denial is made without a complete application pursuant to Env-Sw 1705.05(b), all documents submitted by the applicant that form the basis of the decision;
- (2) State the specific reasons for the denial;
- (3) Provide the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application and denial;
- (4) Identify the applicable provisions for appeal pursuant to RSA 21-O:9, V; and
- (5) Be signed by the director or a person so authorized by the director.

(d) The certification to distribute and use wood ash shall:

- (1) Identify the person to whom the approval shall be granted;
- (2) Identify the type of approval and authority for issuance;
- (3) Identify all documents that constitute the complete application;
- (4) Identify the specific source(s) of the wood ash to which the certification exclusively applies, including the name of the generator and location of the ash generating facility;
- (5) Specify the terms and conditions under which the approved activity shall be authorized, including:
  - a. The date the approval shall be effective;
  - b. The expiration date, if any, and provisions for renewal as applicable; and
  - c. The requirements specified in Env-Sw 1706; and

(6) Be signed by the director or a person so authorized by the director.

(e) Any decision by the department to issue certification shall not affect the applicant's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the approved activity.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3405.07)

PART Env-Sw 1706 TESTING AND REPORTING REQUIREMENTS

Env-Sw 1706.01 Wood Ash Testing and Reporting.

(a) Wood ash that is land applied shall be tested on at least a quarterly basis using monthly composite samples for all parameters listed in, and in accordance with, (d) below.

(b) Results of wood ash analyses shall be reported to the department upon completion.

(c) Reports shall be filed in accordance with Env-Sw 303.

(d) Analyses of representative samples of wood ash pursuant to (a) above shall be as follows:

(1) The analyses shall use EPA test procedures in EPA manual SW 846;

(2) The analyses shall include testing for the following constituents:

- a. Cadmium;
- b. Chromium;
- c. Copper;
- d. Lead;
- e. Mercury;
- f. Nickel;
- g. Zinc;
- h. Potassium;
- i. Molybdenum;
- j. Selenium;
- k. Calcium;
- l. Magnesium;
- m. Vanadium;
- n. Arsenic;
- o. Boron;

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- p. Sodium;
- q. Phosphorus;
- r. Chlorides;
- s. Percent carbon; and
- t. Lime equivalence; and

(3) The test for metals listed in (2) above shall be for total metals.

Source. #6619-B, eff 10-29-97; amd by #7225, eff 3-31-00; ss by #8459, eff 10-28-05 (formerly Env-Wm 3406.01)

Env-Sw 1706.02 Annual Reporting.

- (a) Generators of wood ash certified for land application shall file an annual report with the department.
- (b) Annual reports shall include the following information:
  - (1) Identification and records of all land application sites which received wood ash;
  - (2) The volume of wood ash, expressed in tons, received by each land application site; and
  - (3) The cumulative loading calculations for metals for each land application site receiving wood ash.
- (c) Reports shall be filed in accordance with Env-Sw 303.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05 (formerly Env-Wm 3406.02)

PART Env-Sw 1707 STATUS OF APPROVALS GRANTED BEFORE OCTOBER 29, 1997

Env-Sw 1707.01 Applicability. The rules in this part shall apply to all persons holding a written certification or approval to distribute and use wood ash for agricultural land application granted by the department prior to October 29, 1997 and signed by the director or person so authorized by the director, who continue to operate under the certification or approval.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05 (formerly Env-Wm 3407.01)

Env-Sw 1707.02 Status of Approval.

- (a) A written certification or approval identified in Env-Sw 1707.01 shall remain valid provided the holder of the certification or approval complies with the terms of the written certification or approval and with Env-Sw 1000.
- (b) The terms and conditions of the certification or approval shall remain unchanged unless modified pursuant to applicable provisions of Env-Sw 300.
- (c) If required for administrative purposes, the department shall:
  - (1) Assign a new number to the certification or approval granted prior to October 29, 1997; and



NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

- (2) Send written notice thereof to the person holding the certification or approval.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05  
(formerly Env-Wm 3407.02)

**Appendix**

| <b>Rule Sections</b> | <b>Statute(s) Being Implemented</b> |
|----------------------|-------------------------------------|
| Env-Sw 1700          | RSA 149-M:6, XIV; RSA 149-M:7, VIII |